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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/893,293	06/26/2001	Eimar M. Boesjes	BOESJES5	2000
23892	7590	12/14/2005	EXAMINER	
DAVID S ALAVI 3762 WEST 11TH AVENUE #408 EUGENE, OR 97402			FISCHETTI, JOSEPH A	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 12/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/893,293

Applicant(s)

BOESJES ET AL.

Examiner

Joseph A. Fischetti

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 133-153 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 133-153 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

The restriction requirement has been withdrawn based on applicant arguments in the response dated 9/14/05.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 139, 146, and 153 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. These claims fail to further limit the invention in that they mention nothing about how the buyer is enabled to accomplish the given tasks.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. in view of Heylen and Kelly.

Walker et al. disclose a method for acquisition, evaluation, inventory, distribution, and re-sale of pre-owned products by a re-seller, but the method does not disclose the application top CD re-sales . However, Kelly does disclose the existence of a used CD

Art Unit: 3627

market. It would be obvious to modify Walker et al. to use the method disclosed in Walker et al to include resale of used CDs as the product line which Walker et al resells.

But Walker fails to disclose reading, using a readout device operatively coupled to a programmed electronic processor, data from a data product offered by an owner of the data product; comparing, by means of the programmed electronic processor, data read from the data product with data in a data product information database, the product information database residing on a storage medium operatively coupled to the programmed electronic processor;

identifying, by means of the programmed electronic processor, the data product, if the data product is identified as being listed in the data product information database;

enumerating, by means of the programmed electronic processor,

a) subsets of the data read from the data product that are unreadable, and subsets of the data read from the data product that are erroneously read and uncorrected,

b) subsets of the data read from the data product that are unreadable, and subsets of the data read from the data product that are initially erroneously read and subsequently corrected,

or

c) subsets of the data read from the data product that are erroneously read and uncorrected, and subsets of the data read from the data product that are initially erroneously read and subsequently corrected;

But, Heylen does disclose reading, using a readout device (21) operatively coupled to a programmed electronic processor (22), data from a data product offered by an owner of the data product; comparing, by means of the programmed electronic processor, data read from the data product with data in a data product information database (23), the product information database residing on a storage medium operatively coupled to the programmed electronic processor identifying, by means of the programmed electronic processor, the data product, if the data product is identified as being listed in the data

Art Unit: 3627

product information database (col. 8 lines data product is read as a product of a "group" col. 8, lines 22-37 and is identified by the list L stored at the data store 23);

Heylen in Fig 5 discloses enumerating, by means of the programmed electronic processor, one of

- a) subsets of the data read from the data product that are unreadable, and subsets of the data read from the data product that are erroneously read and uncorrected,
- b) subsets of the data read from the data product that are unreadable, and subsets of the data read from the data product that are initially erroneously read and subsequently corrected, or c) subsets of the data read from the data product that are erroneously read and uncorrected, and subsets of the data read from the data product that are initially erroneously read and subsequently corrected;

Further, Heylen discloses computing, by means of the programmed electronic processor, a quantitative data integrity rating for the data product (rating is read as the calculation discussed on col. 8 lines 30-49 which computes an integrity rating for the disc determining if it is an original based on statistical analysis) using characteristic error information which inherently includes one of :

- a) enumeration of subsets of the data read from the data product that are unreadable, and enumeration of subsets of the data read from the data product that are erroneously read and uncorrected,
- b) enumeration of subsets of the data read from the data product that are unreadable, and enumeration of subsets of the data read from the data product that are initially erroneously read and subsequently corrected, or
- c) enumeration of subsets of the data read from the data product that are erroneously read and uncorrected, and enumeration of subsets of the data read from the data product that are initially erroneously read and subsequently corrected;

Art Unit: 3627

But Heylen fails to disclose determining, by means of the programmed electronic processor, a purchase price for the data product to be offered by the re-seller to the owner of the data product, the purchase price being determined based on i) the quantitative data integrity rating for the data product, and ii) inventory information for the data product from a data product inventory database, order information for the data product in a data product order database, or previous purchase and re-sale information for the data product from a data, product sales database, the data product inventory database, the data product order database, and the data product sales database residing on a storage medium operatively coupled to the programmed electronic processor; and

updating, by means of the programmed electronic processor and in response to a purchase of the data product from the owner by the re-seller, inventory information for the data product in the data product inventory database; determining, by means of the programmed electronic processor, a re-sale price for the data product to be offered by the re-seller to a buyer of the data product, the purchase price being determined based on i) the quantitative data integrity rating for the data product, and ii) inventory information for the data product in the data product inventory database, order information for the data product in the data product order database, or purchase and re-sale information for the data product in the data product sales database; and

updating, by means of the programmed electronic processor and in response to a re-sale of the data product by the re-seller to the buyer, inventory information for the data product in the data product inventory database, order information for the data product in the data product order database, or purchase and resale information for the data product in the data product sales database.

But, Walker et al. disclose a system by which the quality of an item is determined by a seller col. 6 line 25, reputation of the seller, col. 6 lines 35-36, and based on these qualities, an integrity rating is assigned to the product. Next, the system sets resale pricing based upon historical sales (col. 8 line 34 a floor price is set using historical sales and the integrity values. It would be obvious to modify the Heylen to use the

Art Unit: 3627

teaching of Walker assigning an integrity rating to a product to set a purchase price for the data product to be offered by the re-seller/owner of the data product, the purchase price being determined based on i) the quantitative data integrity rating for the data product (Walker col. 8 line 23), and ii) inventory information for the data product from a data product inventory database(pricing tables 600 in Walker et al), order information for the data product in a data product order database (historical sales data col. 8, lines 34-35 in Walker). Official notice is taken regarding the optional factors in pricing of previous purchase and re-sale information for the data product from a data, product sales database, the data product inventory database, the data product order database, and the data product sales database residing on a storage medium operatively coupled to the programmed electronic processor. Official notice is further taken regarding the step of updating inventory following the addition and/or sale of an item into/from inventory and the attendant impact it has on price. The motivation for this combination is to provide Walker et al with a means to better evaluate the quality e.g, provenance of the media being sold and thus give a more accurate meaning to the integrity rating used.

Re claims 136, 143, 150: Walker et al. disclose entering by a seller on the RTS the product information which has not yet been entered into the system. The motivation is herein repeated.

Re claims 138, 139, 145, 146,152, 153: Heylen discloses generating a unique track identifier id read as the error information of the master stored in datafile.

Re claims 134,135,141,142,148,149: col. 1 line 9 discloses CD and DVDs.

Claims 137,144, 151 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. in view of Heylen and Kelly as applied to the claims above, and further in view of Delvin. Delvin discloses scanning data off a CD cover to obtain

Art Unit: 3627

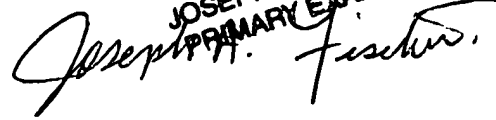
identifying information label, catalog number, artist name, release title (col. 7 lines 3-19), and saving it to a data file. It would be obvious to modify the above combination to scan to database the data on a CD cover and appurtenant information, noting that a title is a lyric and the database disclosed in Delvin is an obvious variant to store this information in the same database as the graphic as this would serve to be a common storage place for the entire work.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 3627

Any inquiry concerning this communication should be directed to Joseph A. Fischetti at telephone number (703) 305-0731.


JOSEPH A. FISCHETTI
PRIMARY EXAMINER

Joseph A. Fischetti
Primary Examiner
Art Unit 3627